

**NOV 15 2005****CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CHRISTOPHER RAMOS TAONG,

Defendant - Appellant.

No. 05-30051

D.C. No. CR-04-00077-A-JWS/JD

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Alaska  
John W. Sedwick, District Judge, Presiding

November 8, 2005<sup>\*\*</sup>

Before: WALLACE, LEAVY, and BERZON, Circuit Judges

Christopher Taong appeals the sentence imposed following his guilty plea to being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). The district court imposed the sentence after the Supreme Court issued its decision in

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

*United States v. Booker*, 125 S. Ct. 738 (2005). Taong contends that the district court violated *ex post facto* principles inherent in the fair notice component of the Due Process Clause by applying the *Booker* remedial majority opinion to increase, based on judicial fact-finding, the sentence for an offense that occurred before *Booker*. This contention is foreclosed by *United States v. Dupas*, 419 F.3d 916, 919-921 (9th Cir. 2005) (holding that retroactive application of *Booker* remedial opinion did not violate *ex post facto* principle of fair warning incorporated into Due Process Clause).

**AFFIRMED.**